

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

TERRY FERGUSON,)	
Plaintiff,)	Civil Action No. 7:15cv00140
)	
v.)	
)	By: Elizabeth K. Dillon
C.L. MESSER, <i>et al.</i> ,)	United States District Judge
Defendants.)	

ORDER

This matter is before the court on defendants’ motion for summary judgment and Ferguson’s motions to amend and defer ruling on the motion for summary judgment. Having considered the motions, the court will grant the motion to amend, dismiss the motion for summary judgment without prejudice, and deny the motions to defer ruling as moot.

In his motion to amend, Ferguson adds additional facts in support of his claims, including injuries he allegedly suffered related to his various claims. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, a party may amend its pleading with the court’s leave and the “court should freely give leave when justice so requires.” Finding it in the interest of justice, it is hereby ORDERED that Ferguson’s motion to amend (Docket No. 59) is GRANTED. Because the complaint as amended may change the arguments presented in defendants’ motion for summary judgment, it is further ordered that defendants’ motion for summary judgment (Docket No. 48) is DISMISSED without prejudice. Pursuant to Standing Order No. 2013-6, the defendants shall FILE a motion for summary judgment within thirty days of the entry of this order, addressing Ferguson’s claims as raised in his amended complaint. Finally, inasmuch as the motion for summary judgment has been dismissed, Ferguson’s motions to defer ruling on the motion for summary judgment (Docket Nos. 55 and 60) are DENIED as moot.

The Clerk is directed to provide a copy of this order to all counsel of record and to Mr. Ferguson, plaintiff.

It is so ORDERED.

Entered: March 10, 2016.

/s/ Elizabeth K. Dillon

Elizabeth K. Dillon
United States District Judge